

ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)
Act 306 of 1969

24.248 Emergency rules; scheduling substance as controlled substance; numbering and compilation; "administrator" defined.

Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 endorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule.

(2) If the director of the department of community health determines that an imminent danger to the health or lives of individuals in this state can be prevented or controlled by scheduling a substance as a controlled substance under section 2251(4) of the public health code, 1978 PA 368, MCL 333.2251, and the administrator determines that the substance should be scheduled or rescheduled as a controlled substance, the department of licensing and regulatory affairs may dispense with all or part of the procedures required by sections 41 and 42 and file in the office of the secretary of state the copies prescribed by section 46 endorsed as an emergency rule, to 3 of which copies shall be attached the certificate of approval and the director of the department of community health's notification under section 2251(4) of the public health code, 1978 PA 368, MCL 333.2251. The office of regulatory reinvention shall submit the emergency rule draft language to the legislative service bureau for its formal certification within 7 business days of receipt from the department of licensing and regulatory affairs. The legislative service bureau shall issue a certificate of approval indicating whether the proposed rule is proper as to all matters of form, classification, and arrangement within 7 business days after receiving the submission and return the rule to the office of regulatory reinvention. If the legislative service bureau fails to issue a certificate of approval within 7 business days after receipt of the submission for formal certification, the office of regulatory reinvention may issue a certificate of approval. If the legislative service bureau returns the submission to the office of regulatory reinvention before the expiration of the 7-business-day time period, the 7-business-day time period is tolled until the rule is returned by the office of regulatory reinvention. The legislative service bureau shall have the remainder of the 7-business-day time period to consider the formal certification of the rule. Upon receipt from the legislative service bureau, the office of regulatory reinvention shall, within 7 business days, approve the proposed rule if it considers the proposed rule to be legal and appropriate. An emergency rule adopted under this subsection remains in effect until the earlier date of the following:

- (a) An identical or similar rule is promulgated.
- (b) An identical or similar bill is enacted into law.
- (c) The administrator determines that the emergency rule is no longer necessary.

(d) Six months after the date of its filing, which may be extended for not more than 6 months by the administrator upon filing a certificate of extension with the office of secretary of state before the expiration of 6 months after the date of its filing.

(3) An emergency rule shall not be numbered and shall not be compiled in the Michigan administrative code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.

(4) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code.

(5) As used in this section, "administrator" means that term as defined in section 7103 of the public health code, 1978 PA 368, MCL 333.7103.

History: 1969, Act 306, Eff. July 1, 1970;—Am. 1977, Act 82, Imd. Eff. Aug. 2, 1977;—Am. 1982, Act 413, Eff. Jan. 1, 1984;—Am. 1986, Act 292, Imd. Eff. Dec. 22, 1986;—Am. 1999, Act 262, Eff. Apr. 1, 2000;—Am. 2012, Act 181, Imd. Eff. June 19, 2012.

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